

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE: AQUEOUS FILM-
FORMING FOAMS
PRODUCTS LIABILITY
LITIGATION

MDL No. 2:18-mn-2873-RMG

ORDER

The Court has received a communication from the co-lead of the Defense Coordinating Committee (DCC), Joseph Petrosinelli, expressing concern regarding the recent disclosure by the Plaintiffs' Executive Committee (PEC) of "thousands of unfiled claims involving the six medical conditions the PEC is pursuing (vastly more than when the Court spoke with the parties on May 13). The number of these unfiled claims now dwarfs the number of personal injury cases that are actually filed in the MDL, and it continues to grow at a rapid pace." Mr. Petrosinelli further stated that "the massive number of unfiled claims raises significant issues regarding case management, scheduling, and the bellwether process relating to personal injury cases." (Dkt. No. 7515).

The PEC has responded to Mr. Petrosinelli's communication to the Court by asserting that the number of unfiled personal injury claims is a confidential matter within the mediation process and should not have been disclosed to the Court. (Dkt. No. 7516). The issue of unfiled personal injury claims has been previously discussed by the parties with the Court, and it was entirely appropriate and necessary for the DCC to bring this matter to the Court's attention. The sudden aggregating of a large number of unfiled personal injury claims has the potential of disrupting the orderly operation of the MDL and undermining ongoing settlement discussions among the parties. This situation, if accurately portrayed by the DCC, is the Court's business and should have been earlier disclosed to the Court by the PEC.

The DCC requests a telephone status conference before the parties' next mediation session with Judge Layn Phillips set for July 25, 2025. Under these circumstances, the Court agrees that a telephone conference with the PEC and DCC lead counsel would be useful. The Court will notice a telephone conference with the co-leads of the PEC and DCC for July 22, 2025 at 4:00 p.m. The Court will request Judge Phillips to join the telephone conference.

In advance of the telephone conference with the co-leads, the Court directs the PEC co-leads to provide the following information on or before noon on July 18, 2025:

1. The number of unfiled personal injury claims¹ as of May 13, 2025;
2. The number of unfiled personal injury claims as of the date of this Order;
3. The number of filed personal injury cases as of the date of this Order; and
4. Identify all members of the PEC (including their law firms) who have more than 100 unfiled personal injury claims. For each member of the PEC identified, state the number of unfiled personal injury claims as of the date of this Order.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

July 15, 2025
Charleston, South Carolina

¹ "Unfiled personal injury claims" means all unfiled personal injury claims which include at least one claim relating to exposure to AFFF causing one of the six medical conditions the PEC is pursuing.